

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MIKEESE WYNN-THOMAS,

Plaintiff,

vs.

PATRICK DEMPSEY,

Defendant.

**8:21CV54**

**MEMORANDUM  
AND ORDER**

This matter is before the court on Defendant's motion to amend progression order (Filing 24).

A progression schedule may be modified only for good cause and with the judge's consent. Fed. R. Civ. P. 16(b)(4). The movant's level of diligence and the degree of prejudice to the parties are both factors to consider when assessing if good cause warrants extending a case management deadline, with the movant's diligence being the first consideration and the extent of prejudice to either party considered only after the movant makes a showing of due diligence. *Smith v. Miller*, No. 8:19CV298, 2020 WL 2793566, at \*1 (D. Neb. May 29, 2020) (citing cases).

The court finds Defendant has made a sufficient showing of good cause, as Plaintiff has continued to fail to provide responses to discovery requests that were served on September 30, 2021, which has hampered Defendant's trial preparations. Defendant states he intends to file a motion for summary judgment, but requires an extension of the April 7, 2022 deadline, and requests an additional 60 days. The court further finds such an extension is in the interest of justice and is not unduly prejudicial to Plaintiff.

Accordingly,

IT IS ORDERED that Defendant's motion to amend progression order (Filing 24) is granted, as follows:

1. The deadline for filing all dispositive motions (see Filing 21, ¶ 4) is extended to June 6, 2022.
2. The Final Pretrial Conference scheduled for July 12, 2022, at 11:00 a.m. before Magistrate Judge Cheryl R. Zwart is cancelled, and no Proposed Order on Final Pretrial Conference need be drafted or submitted by defense counsel in advance of that date. (See Filing 21, ¶ 5.) The Final Pretrial Conference will be rescheduled as needed.

Dated this 4th day of April, 2022.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge